IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

MONDAY, THE 25TH JUNE 2007 / 4TH ASHADHA 1929

WP(C).No. 13311 of 2007(I)

PETITIONER:

KUTTAPPAN.C.C.,
GRADE ASSISTANT SUB INSPECTOR OF POLICE,
HCR 3710, IRINJALAKUDA POLICE STATION,
THRISSUR DISTRICT, RESIDING AT CHATTUPURAKKAL
HOUSE, MATTATHOOR VILLAGE, KUZHIKKANI DESOM,
P.O.KODAKARA, THRISSUR.

BY ADV. SRI.M.P.KRISHNAN NAIR

RESPONDENTS:
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1. STATE OF KERALA, REP. BY SECRETARY,
HOME DEPARTMENT, THIRUVANANTHAPURAM.

2. SUPERINTENDENT OF POLICE, THRISSUR.

BY GOVERNMENT PLEADER SRI. P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 13311 of 2007(I)

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT-P1: TRUE COPY OF THE RECEIPT DATED 4-4-07 ISSUED BY N.A. JALEEL

EXHIBIT-P2: TRUE COPY OF THE SUSPENSION ORDER DATED 12-5-2007 ISSUED BY THE SUPERINTENDENT OF POLICE

EXHIBIT-P3: TRUE COPY OF THE SUSPENSION ORDER NO.H1-15530/07/R DATED 16-04-07

EXHIBIT-P4: TRUE COPY OF THE LIST PREPARED FOR THE TOTAL COLLECTED ITEMS

/TRUE COPY/

P.A. TO JUDGE

K.BALAKRISHNAN NAIR, J.

W.P.(C) No. 13311 of 2007-I

Dated this the 25th day of June, 2007.

J U D G M E N T

The petitioner is a Head Constable, working as Assistant Sub Inspector, on grade promotion. He has been placed under suspension, under Ext.P3 order, on the allegation that he misappropriated Rs.11,000/-, from a person, injured in an accident. The bag of the injured contained Rs.20,000/-. But, the petitioner accounted only Rs.9,000/-, while preparing the mahazar. On that allegation, the petitioner is placed under suspension. As per the suspension order, an Enquiry Officer has also been appointed to enquire into the allegations against the petitioner and to submit a report, within two months. According to the petitioner, the allegations are absolutely unfounded and the bag contained only Rs.9,000/-.

2. The second respondent has filed a counter affidavit, in which it is submitted that the enquiry against the petitioner is going on and during the course of the enquiry, the petitioner will be given a chance to present his case. The learned Government Pleader pointed out that the writ petition is not maintainable, as the petitioner has got a statutory right of appeal, against Ext.P3.

3. Going by the allegations in the suspension order, the suspension of the petitioner is warranted. But, the petitioner has got a case that the allegations against him are incorrect. If that be so, he may invoke the appellate remedy or wait for the outcome of the enquiry, against him. At this stage , this Court cannot interfere with Ext.P3. Accordingly, the Writ Petition is dismissed. If the petitioner invokes the appellate remedy, the period this writ petition was pending before this Court shall be excluded, while computing the period of limitation.

K.BALAKRISHNAN NAIR,
JUDGE.

MS